

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 07-1500 JB

JUSTIN HATCH,

Defendant.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on the Defendant's Appeal of Detention Order, filed January 2, 2008 (Doc. 13). The Court held a hearing on January 15, 2008. The primary issue is whether the Court should overturn the detention order that the Honorable William P. Lynch, United States Magistrate Judge entered because Defendant Justin E. Hatch has a number of recent failures to appear in state court and because of his recent criminal history. Because the Court shares Judge Lynch's concern about Hatch's alleged criminal activities and because of recent failures to appear at judicial proceedings, the Court will affirm Judge Lynch's order and dismiss his appeal.

**FACTUAL BACKGROUND**

The Indictment alleges that, on or about March 1, 2007, in Doña Ana County, in the State and District of New Mexico, Hatch knowingly possessed a firearm. See Indictment, filed July 19, 2007 (Doc. 1)(Sealed)(Court only). The firearm was a Remington Model 870 Express 12 gauge shotgun, bearing Serial Number W672621M, with a barrel length of 15.75 inches and an overall length of 25.75 inches. See id. at 1. The firearm was not registered to him in the National Firearms Registration and Transfer Record. See id.

### **PROCEDURAL BACKGROUND**

In an Indictment filed July 19, 2007, the Grand Jury charged Hatch with Possession of an Unregistered National Firearms Registration and Transfer Record Firearm (Shotgun) in violation of 26 U.S.C. § 5861(d) and 26 U.S.C. § 5871. See Redacted Indictment, filed July 19, 2007 (Doc. 2). On December 17, 2007, Hatch initially appeared before Judge Lynch subsequent to his arrest for Possession of an Unregistered Firearm. On December 18, 2007, Hatch appeared before Judge Lynch, at which time he was ordered detained as a risk of nonappearance and danger to the community.

On December 18, 2007, Pretrial Services contacted state Assistant Deputy Attorney, Heather Chavez, who is prosecuting Hatch on two felony state cases which are currently pending. On December 20, 2007, Judge Lynch denied Hatch's request for conditions of release and required that he remain in custody. See Order of Detention Pending Trial, filed December 18, 2007 (Doc. 10). In his Order of Detention Pending Trial, Judge Lynch found that there is a serious risk that Hatch will not appear and that Hatch will endanger the safety of another person or the community. See id. Hatch has given the Court notice of his appeal of Judge Lynch's order. See Appeal of Detention Order, filed January 2, 2008 (Doc. 13).

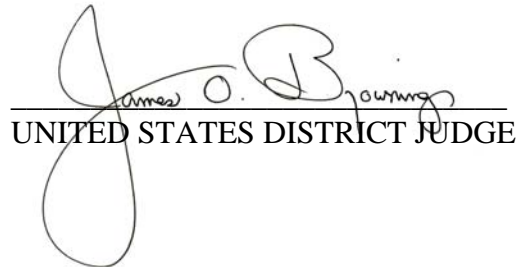
### **ANALYSIS**

The record reveals that Hatch has a number of failures to appear for court proceedings in state court in recent years. While Hatch states that his failures to appear came in traffic misdemeanor cases and that he has satisfied his obligations in all cases, his disregard of his judicial obligations in the recent past gives no comfort to the Court that he is not a flight risk. The Court agrees with Judge Lynch that Hatch poses a serious risk of nonappearance.

There are also pending state charges in two cases against Hatch, including Homicide by

Vehicle (Reckless). In case number D-307-CR-200701585, Hatch was allegedly fleeing from police at a high rate of speed in a residential area when he collided with another vehicle, which was carrying four individuals. As a result of the collision a twenty-eight year old woman was killed, and another victim remains in a coma. Hatch was on bond in case number D-307-CR-200700969 when he was charged in case number D-307-CR-200701585. Judge Lynch's decision was based on the risk of nonappearance and danger. The Court agrees with his assessment. Hatch appears to be a risk of nonappearance based on his history. For the reasons stated at the hearing, and for reasons consistent with those already stated, the Court will affirm Judge Lynch's order and dismiss Hatch's appeal.

**IT IS ORDERED** that the Honorable William P. Lynch's Order of Detention Pending Trial is affirmed and the Defendant's Appeal of Detention Order is dismissed.



UNITED STATES DISTRICT JUDGE

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